

**LEMON GROVE AGENCY NAME
AGENDA ITEM SUMMARY**

Item No. 3
Mtg. Date April 3, 2018
Dept. Development Services Department

Dept. Dir. _____
City Mgr. _____
City Atty. _____

Item Title: **Public Appeal to Consider Appeal No. AA1-800-0001 Regarding the Denial of Zoning Clearance No. ZCM-170-0002; a Request to Apply for a Conditional Use Permit to Establish a Medical Marijuana Dispensary at 3515-21 Harris Street in the General Commercial/Heavy Commercial Zone**

Staff Contact: Lydia Romero, City Manager

Recommendation:

1. Conduct the public hearing; and
2. Adopt a Resolution (Attachment B) upholding the Development Services Director's determination to deny ZCM-170-0002, a request to apply for a conditional use permit to establish a medical marijuana dispensary at 3515-21 Harris Street in the General Commercial/Heavy Commercial Zone. This space is expandable

Item Summary:

Materials submitted after agenda was published.

Fiscal Impact:

NONE

Environmental Review:

- | | |
|---|---|
| <input type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | |
|---|---|
| <input type="checkbox"/> None | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Neighborhood meeting |

Attachments:

- A. Letter from Gina Austin, Austin Lega Group
dated March 30, 2018

Austin Legal Group
LAWYERS
3990 OLD TOWN AVE, STE A-112
SAN DIEGO, CA 92110

LICENSED IN CALIFORNIA & HAWAII
TELEPHONE
(619) 924-9600

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Writer's Email:
gaustin@austinlegalgroup.com

March 30, 2018

City of Lemon Grove
City Council
3232 Main Street
Lemon Grove, CA 91945

Re: **3515 Harris Street**, Appeal of ZCM-170-0002/AA1-800-0001 (the "Application")

Dear City Council Members:

Austin Legal Group, APC represents KIM Investments, LLC and Joe Yousif (the "Applicant") for a MMD located at 3515 Harris Street, Lemon Grove ("MMD Location"). This letter provides additional support for the Applicant's appeal of the City's retroactive denial of its Zoning Clearance Application.

As discussed below, good grounds exist for this appeal because 1) City staff erroneously applied the law and 2) the findings underpinning the denial of the zoning clearance are not supported. Accordingly, the City Council should grant the Applicant's appeal and reverse staff's decision to deny the Application.

FACTUAL BACKGROUND

On November 30, 2017, the Applicant attempted to submit a Zoning Clearance application in accordance with the City's rules and regulations ("Application"). The Development Services Director refused to accept the application and indicated that the City Attorney would determine whether or not an application could be submitted. On December 5, 2017, the City Attorney's office notified this office that it would accept the Application from the Applicant. That same day, December 5, 2017, the Applicant submitted its Application, which included a letter from the Department of Social Services that a licensed child care located at 3335 Citrus Street forfeited its license on October 11, 2017 (See Exhibit 1.)

On January 8, 2018, the Applicant received the City's first round of comments. (See Exhibit 2.)

On January 25, 2018, in response to a public records request, the City provided the most recent update on MMD applications as of January 24, 2017. (See Exhibit 3.) The Applicant's status is identified on page 4 as "Meets distance restrictions" and "Deemed incomplete."

On February 7, 2018 the Applicant submitted responsive documents to each issue identified in the City's January 8, 2018 comment letter.

On February 15, 2018, the Applicant received a letter from the City stating that after the Applicant's February 7, 2018 submission the City received "evidence that there is a new State-licensed family daycare home within 1,000 feet of the subject property which disqualifies the subject property from eligibility...." (See Exhibit 4.)

On February 15, 2018, the Applicant filed this appeal.

On March 8, 2018, the City identified the address of the licensed child care facility as 3335 Citrus Ave.

On March 15, 2018, the Applicant went to the Department of Social Services and obtained a copy of the state licensing documents relative to 3335 Citrus Avenue. The documents received indicate that on February 13, 2018, 3335 Citrus Avenue received a "*provisional license*" that became effective on February 21, 2018. (See Exhibit 5.)

BASIS FOR APPEAL

I. STAFF'S DECISION TO DENY THE APPLICATION VIOLATES THE LAW

The City denied the Application by combining its zoning clearance process with a "deemed complete" determination. Specifically, the City denied the Application when it learned a non-operational daycare facility was issued a provisional license *after* the City determined the MMD Location met the City's separation requirement from protected uses, or gave it a zoning clearance approval. Put another way, the City rationalized its decision to deny the previously approved zoning clearance because the Application was not "deemed complete." The City's basis for denial is unsupported in the law and the City's decision to deny the Application is arbitrary and capricious.

A. Staff's Decision To Deny The Application Violates The Municipal Code

On prior occasions, and in the context of other uses like liquor stores, strip clubs, and adult stores, the City has unequivocally indicated that zoning clearance approval is a condition precedent for a change in use and that the City will not process a conditional use permit without zoning clearing. (See Exhibit 6.) In Exhibit 6, Mr. De Vries emphasized portions of the municipal code that require Zoning Clearance prior to submitting application packages. Mr. DeVries' logic in Exhibit 6 is that a zoning clearance is the first step for a change in use is consistent with the municipal code.

The Lemon Grove Municipal Code ("LGMC") has an independent section which specifically discusses zoning clearance. LGMC section 17.28.070, entitled "Zoning Clearances" states as follows:

A. Purpose. This section establishes procedures for conducting a zoning clearance review to ensure that all proposed uses, structures,

and/or *improvements* comply with the applicable requirements of this *code*. The zoning clearance ***serves as a record of compliance. Prior to***, or concurrent with, submitting an application for any *business* license, *building* permit, *improvement*, subdivision, or other change in use, the applicant shall obtain a zoning clearance. A zoning clearance also serves as a record of *decisions* for proposed uses, structures, and/or *improvements*, which may not require additional approvals or permits in this *code*. (emphasis added in bold.)

C. Application Procedures. *Application packages* for zoning clearances shall be processed according to Section 17.28.020. Development services department staff shall process and decide zoning clearance applications *ministerially*. (Ord. 434 § 5, 2015; Ord. 386 § 3, 2009)

Thus for a change in use, a threshold zoning clearance determination is required prior to an application for any change in use. After that determination is made, and assuming the change in use is cleared, the LGMC sets forth the second step of the process of submitting an application package.

LGMC section 17.28.020 governs application procedures submitting and processing proposed uses. This section makes clear that zoning clearance and the application package are two separate processes.

LGMC section 17.28.020(D) states that "[p]rior to submitting *application packages* for permits or other approvals, the applicant shall obtain a zoning clearance according to Section 17.28.070. Thereafter, *application packages* shall be submitted to the development services department upon a prescribed form, accompanied by applicable fees according to subsection (D)(1), and related materials necessary to show that the proposed *use, structures, and/or improvements* of the property comply with applicable provisions of this *code*, state law, federal law and the requirements and conditions of any associated permit. Each application filed by, or on behalf of, one or more property owners shall be verified by at least one such owner or the owner's authorized agent attesting to the truth and correctness of all facts, statements, and information presented."

LGMC section 17.28.020(E)(1) states that "[u]pon initial submittal, *application packages* shall be distributed to applicable departments for review. No more than thirty *days* following the date of initial submittal, *application packages* shall be *deemed complete* or incomplete with a request for more information. Once the requested information is received, the thirty-day staff review cycle restarts. No action shall be taken on applications not yet *deemed complete*."

The LGMC does not define "deemed complete." There is also a difference between "deemed complete", "deemed complete but needs more information," and "deemed incomplete." While the LGMC clearly states that zoning clearance means the application complies with the Municipal Code and gives the applicant a threshold determination that the use meets the City's minimum conditions of approval in the Municipal Code. There is no such definition for the application package process which

is further evidence that the "deemed complete" process was not intended to part of the period by which a sensitive use could be used by the City to deny an Application that was already given zoning clearance.

It is clear from subsections D and E that submission of an application package is predicated on a zoning clearance and zoning clearance approval acts as a one way gate- once zoning clearance is given, the City has given its consent to the use and the Application proceeds through a separate process for approval.

The City's February 15, 2018 Zoning Clearance denial letter erroneously states the zoning clearance requires the application meet the separation requirements and that the application be deemed complete. The City's ad hoc interpretation is unsupported in its municipal code and the City ignores the fact that there are two separate processes: Zoning clearance and deemed complete.

Here, the City's January 25, 2018 response to the public records request shows a determination that the MMD Location met the LGMC separation requirements which constituted the Application's zoning clearance. In this circumstance, the City's decision to deny the Application because a day care appeared after the MMD Location was given its zoning clearance, but before the Application was deemed complete, was improper. The MMD Location met City's separation requirements and there should never have been a "look back" for protected uses

City staff inaccurately denied the Applicant's zoning clearance application *after* it determined the MMD Location met the City's distance restrictions. City staff also failed to confirm the presence of an operational daycare prior to denying the Application.

B. Measure V Does Not Support Denial

Measure V section 17.32.090(B) states that "an application may be submitted provided the proposed facility meets the required distance measurements [emphasis added]." The application in question was submitted *prior* to 3335 Citrus Street becoming a licensed daycare facility. Neither measure V nor the LGMC requires or even suggest that the distance measurement should be considered or evaluated each time the applicant submits supplemental information.

C. Bulletin 23 Does Not Support Denial

In March 2017, the City authored an informational bulletin, Bulletin 23, to "supplement" and "support" the "regulations contained in the Lemon Grove Municipal Code (LGMC)..." Bulletin 23 does not replace the LGMC, rather it summarizes various categories of information applicable to MMD's. Notably, Bulletin 23 identifies the zoning clearance and conditional use permits as *separate* processes. "A zoning clearance is a ministerial permit granted by Development Services Director to conduct a specified use or to make a zoning determination."

Bulletin 23 states that an application must include all of the required information. There is no dispute that the Applicant included all of the required information. Rather, the issue is one of *quality* of what was submitted. The submittal checklist returned by the City identifies all materials as having been submitted (See Exhibit 2.) Specifically, all materials required to be submitted related to Section 17.32 of the LGMC are identified with check marks acknowledging that they were included in the submittal package. (See Exhibit 3, pg 7). The Application here clearly met the standard. In fact, the cover letter to states that "incomplete items are submitted and/or corrected accordingly." Nowhere in the January 4, 2018 letter does the City state that required items were not submitted. Rather, the City acknowledges that that some of the items are not relevant due to the new state laws and is "updating is Medical Marijuana Cultivation Source Agreement and the Planning Permit Submittal Checklist for Medical Marijuana Dispensaries to reflect new State provisions, clarify common question and update requirements." The Applicant notified the City prior to submittal that the requirements we not consistent with State law and submitted each required item.

II. THE CITY ERRONEOUSLY CONSIDERED A NON-OPERATIONAL DAY CARE AFTER IT DETERMINED THE MMD LOCATION MET THE DISTANCE RESTRICTIONS FOR PROTECTED USES

The City's March 8, 2018 letter states that there is family daycare home at 3335 Citrus. Noticeably absent from the staff report is confirmation from the daycare operator that childcare is actually occurring at 3335 Citrus and/or that children are present.

LGMC section 17.08.003 defines Licensed Day Care Facilities as follows:

"Day care" means a facility, **licensed and equipped as required by law**, which provides non-medical care and supervision for periods of less than twenty-four hours. This term shall include nursery schools.

1. "Small family day care" means day care that is provided in a single-family dwelling for up to eight people in accordance with Section 1597 of the California Health and Safety Code. The day care provider shall reside in the home.
2. "Large family day care" means day care that is provided in a single-family dwelling for up to fourteen people in accordance with Section 1597 of the California Health and Safety Code. The day care provider shall reside in the home.

The plain language of LGMC section 17.08.003 *requires that non-medical care and supervision is actually occurring on site*. Thus, the mere existence of a license should not, and does not, automatically create a protected use. The plain language of the City's municipal also requires actual onsite use. It is nonsensical to find a "protected use" at a home where no onsite childcare services are actually occurring, which is the situation with 3335 Citrus Street. There is no actual onsite supervision at 3335 Citrus Street. As shown in the photographs attached to this letter, 3335 Citrus Street is *vacant*.

The City's de facto rationalization to use 3335 Citrus Street to deny the Application is legally and factually unsupportable.

III. PUBLIC POLICY DISFAVORS THE CITY'S CURRENT POSITION ON ITS ZONING CLEARANCE PROCESS

The City's decision to deny the Application based on retroactive application of a protected use gives precedent for a convoluted and impractical procedure in the application process that is costly to both the City and the Applicant.

From a purely practical standpoint, the zoning clearance is **"one and done."** The Applicant gets one shot at the clearance and the answer is yes or no. If no, the Applicant must wait at least one year before making a second request. If yes, the Application proceeds to the second part of the process. With this Application, the "one and done" was favorable to the Applicant which propelled the City and the Applicant into the information gathering process.

Information gathering can go on for repeated thirty-day cycles until the application is "deemed complete." The City has not, and does not, require a new zoning clearance every time the City and the Applicant go through another round of information gathering. The City's decision to deny the Application in this circumstance, after the zoning clearance approval and during the information gathering period, runs contrary to past practices and essentially nullifies the zoning clearance approval's impact on the application process. The City's denial on this Application means that the first zoning clearance that the Applicant and the City relied on to move the application package forward was immaterial. It is nonsensical for the City to take the position now that a zoning clearance can be denied at any time after the zoning clearance "go ahead" was given. Not only does this position create chaos in the application process, it is damaging to the City and future applicants and has damaged the City and this Applicant.

The Applicant and the City both detrimentally relied on the MMD Location's zoning clearance approval. Both the Applicant and the City have devoted time and resources since the zoning clearance approval to process the Application. Not only did the Applicant pursue the Application in reliance on the City's zoning clearance approval, the City also processed the Application after the zoning clearance approval. Presumably neither the Applicant nor the City want to spend time and resources processing applications that can be rejected at any time.

Thus the City's current position that the zoning clearance can be changed at any time will throw the application process into uncertainty for, at minimum, the following two reasons: 1) there is only one zoning clearance review and the City has now opened the door for repeated re-evaluation turning the "one and done" into a cyclical free for all; and 2) the City's position that zoning clearance is tethered to a "deemed complete" determination lacks certainty because the municipal code fails to define when an application is "deemed complete." This makes the entire process uncertain and impractical. The City should adhere to its position that a zoning clearance approval is done once and is a prerequisite to processing a conditional use permit. If the City adheres to this position, once zoning clearance approval is given, it starts processing the conditional use permit and does not, and cannot, look back at

the zoning clearance. With respect to this Application, if the City follows its own practices, it improperly denied the Application and it should reverse that denial and allow the Application to proceed.

IV. THE APPLICANT IS AGREEABLE TO A DEVELOPMENT AGREEMENT

In order to help the City avoid future uncertainties related to the poor drafting of Measure V, the Applicant is willing to enter into a development agreement that would vest the Applicant's zoning clearance as of the initial submittal date and would provide financial benefits to the City. Development Agreements are very common in the cannabis industry and many cities without tax measures have implemented them to insure stability for both the City and the applicant. Examples of California cities that use Development Agreements for this purpose include Lake Elsinore, Desert Hot Springs, Sacramento, Ceres, Oakley, Patterson, Dixon, Stanislaus County, Yolo County, Cudahy, Huntington Park, Lancaster, Oakdale, and Oroville.

* * *

For the reasons stated above, the Applicant respectfully requests the City Council reverse the denial of the Zoning Clearance.

Sincerely,
AUSTIN LEGAL GROUP, APC


Gina M. Austin, Esq.

cc: Development Services Director

EXHIBIT 1
Childcare License Forfeiture



CDSS

WILL LIGHTBOURNE
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
COMMUNITY CARE LICENSING DIVISION

CCLD Regional Office
7575 METROPOLITAN DR., STE 110
SAN DIEGO, CA 92108



EDMUND G. BROWN JR.
GOVERNOR

September 25, 2017

BLAIR, KEISHA
BLAIR, KEISHA FAMILY CHILD CARE – 376622864
7379 Broadway Street, #118
Lemon Grove, CA 91945

Dear Ms. Blair:

SUBJECT: FORFEITURE OF LICENSE

The license issued to you at the above facility address is forfeited pursuant to Health and Safety Code Sections 1524, 1568.061, 1569.19, or 1596.858. Your license is no longer valid and all provision of care and supervision must cease at this location. The reason for the forfeiture is:

- ☐ Licensee has sold or transferred the facility or property
- ☒ On 09/25/2017, the Licensee has surrendered the license to the Department. We acknowledge receipt of your license and/or your statement that you are surrendering your license. The surrender of your license does not deprive the Department of its authority to institute or continue an administrative action against you.
- ☐ Licensee has moved from one location to another.
- ☐ Licensee has been convicted of an offense specified in Section 220, 234.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.
- ☐ Licensee has abandoned the facility by informing Community Care Licensing that he/she no longer accepts responsibility for the facility.
- ☐ Licensee has abandoned the facility due to the following:
 1. Community Care Licensing has been unable to determine the licensee's whereabouts and information of the licensee's whereabouts cannot be obtained from the facility's staff, if any staff can be contacted; and
 2. Licensee has failed to respond to daily phone inquiries made for five consecutive days from ___/___/___ through ___/___/___; and
 3. Licensee failed to respond to letter dated ___/___/___.
- ☐ Licensee has failed to pay the annual fee pursuant to Health and Safety Code Sections 1523.1 (Community Care Facilities), 1568.05 (Residential Care Facilities for the Chronically III), 1569.185 (Residential Care Facilities for the Elderly), or 1596.803 (Child Care Facilities). The forfeiture of your license does not deprive the Department of its authority to institute or continue an administrative action against your license. If administrative action results in the revocation of your license, your application for a new license will not be processed until two years have elapsed from the date of the revocation pursuant to Health and Safety Code Sections 1520.3, 1568.065, 1569.16, and 1596.851.

If you have not already done so, please send your license to the above address. If you continue to operate a facility without a license you are in violation of the Health and Safety Code and may be subject to civil penalties. If you wish to operate a facility again, you must reapply and be approved for a new license. If you have any questions about this action, please call me at (619) 767-2224 or write to Community Care Licensing at 7575 Metropolitan Drive, Suite 110, San Diego Ca 92108.

Sincerely,

MARIE HERNANDEZ
Licensing Program Analyst

EXHIBIT 2
City Response to First Submission



CITY OF LEMON GROVE

Development Services Department

"Best Climate On Earth"

Date: January 4, 2018

KIM Investments, LLC
RRJJ, LLC
Attn. Jilette Yousif
2221 Camino Del Rio South # 207
San Diego CA 92108

Gina Austin
3990 Old Town Ave., Ste. A112
San Diego, CA 92110

SUBJECT: Notice of Incomplete for Zoning Clearance Application ZCM-170-0002 for property located at 3515 Harris Street, in the City of Lemon Grove (APN:479-052-07-00).

Mr. Yousif and Ms. Austin,

The City has completed the application review for the above referenced project. Titles, chapters, and sections referenced are from the Lemon Grove Municipal Code (available on our website at www.lemongrove.ca.gov).

As stated in Measure V, Ch. 17.32, the required findings of fact are required in order for the City Council to approve this project are as follows (also restated in Bulletin 23):

17.32.080 Findings.

In addition to the findings required for the granting of a conditional use permit by Section 17.28.050 of this title, the decision making authority shall consider the following:

A. Whether the approval of the proposed use will violate the minimum requirements set forth in this chapter for distance separations between establishments which dispense, process or cultivate medical marijuana; and separations between establishments which dispense, process or cultivate medical marijuana and other specific regulated or protected land uses as set forth in this chapter.

B. Whether the proposed use complies with Title 17 of the Lemon Grove Municipal Code.
(Ord. 443 § 1, 2016)

17.28.050 Conditional use permits.

A. Purpose. This section establishes procedures for accommodating proposed uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings that are otherwise prohibited in this code. This section assures that any area will assume or retain the characteristics intended by zoning. This section also establishes procedures for processing conditional use permit applications.

B. Uses Subject to These Provisions.

1. Uses outlined in specific zoning districts.

C. Findings. A conditional use permit may be approved if all of the following findings are made:

1. The use is compatible with the neighborhood or the community;

2. The use is not detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity;

3. The use complies with performance standards according to Section 17.24.080;

4. The use is consistent with applicable provisions of the particular zoning district and with policies and standards of the general plan.

D. Application. Application packages for conditional use permits shall be processed according to Section 17.28.020. The city council shall hear and decide all conditional use permit applications during the course of at least one public hearing, conducted according to Section 17.28.020(G). (Ord. 434 § 5, 2015; Ord. 386 § 3, 2009)

For reference, only the Planning Division reviews Zoning Clearance applications and does not do a full review for compliance of the Municipal Code. Once the Zoning Clearance application is deemed complete, a Conditional Use Permit may be applied for where a full compliance check with the Municipal Code and an interdepartmental review is conducted. Some corrective items are noted herein. As reflected in Bulletin 23, the zoning clearance process for a marijuana dispensary is twofold: 1) Does the application meet separation requirements from permitted marijuana dispensaries and protected uses; and 2) Is the application provided complete. Once these two reviews are satisfied, the applicant is eligible to submit a conditional use permit. Staff recommended this process to City Council at the March 7, 2017 City Council meeting. The process is such, so that when a conditional use permit is applied for after zoning clearance approval notice of complete, staff can then take in the \$1,500 deposit and updated application form and route the application, plans and materials to the various reviewing departments for corrections and/or conditions if any. This project has been found to be incomplete and the following corrections shall be addressed prior to resubmittal.

Planning (David De Vries- 825-3812)

The Planning Division is in the process of updating its Medical Marijuana Cultivation Source Agreement and the Planning Permit Submittal Checklist for Medical Marijuana Dispensaries to reflect new State provisions, clarify common questions and update requirements. As you are aware the existing checklist requires that a consultation with a planner be conducted prior to submission for a zoning clearance and this was not done. Had this been conducted, many of these items could have been identified. A minimum of one completed and signed source agreement with appropriate materials is required to qualify for a conditional use permit. Questions related to distribution requirements will be addressed in the new source agreement. In the interim, please submit the State license for the cultivation source and its corresponding Type 11 distributor and the signed contract between the cultivator and the distributor. I have reviewed the checklist and marked complete and incomplete items. This checklist will need to be signed and returned with your resubmittal. Please ensure the incomplete items are submitted and/or corrected accordingly. For further clarification, the following items shall be required for your revised plan submittal:

1. Resubmit eight copies of the plans with appropriate corrections listed herein. Plans shall be stapled together then folded to an 8 ½ by 11 inch size or similar;
2. The subject property is zoned General Commercial and Heavy Commercial within Special Treatment Area III (STA III). The more restrictive zoning requirements prevail. The title sheet indicates that lot coverage exceeds the 35 percent maximum required. A commercial

- loading space may be required if the total commercial floor area exceeds 3,000 square feet. Revise the plans accordingly.
3. Amend plans to include elevations and floor plans for all buildings to remain on-site. Include the proposed land use descriptions of all buildings to remain within plans and in the scope of work. Revise the scope of work in the title sheet to include existing buildings to remain and to be demolished and proposed land uses for these facilities. Sheet A7.00 Existing Site Conditions is referenced in Title Sheet, but is not included in plan package. Revise the plans accordingly.
 4. The lighting plan shall include a description and legend to display the level of intensity in laymen's terms. All exterior areas are required to be illuminated.
 5. Ten percent of the property is required to be landscaped in accordance with Chapter 18.44 and Section 17.24.050(B). The landscape plans do not comply with Chapter 18.44 and Section 17.24.050. Revise the plans accordingly. Reference Bulletin 21 attached.
 6. The architectural investigation shall be revised to include a stamp by a licensed architect and include an analysis and evidence showing compliance with Title 15. Note existing and proposed occupancy classifications and load and revise the plans and architectural investigation to reflect any change in occupancy and provide evidence of compliance with Title 15 including ADA access and fire requirements.
 7. Provide easement records for Exceptions # 7 and # 8 on page 4 of the preliminary title report.
 8. Storm water Forms I-1 and I-2 are both checked yes. Amend the forms to accurately reflect the proposed improvements on the property.
 9. The operations manual references cultivation activities proposed on-site on page 11, but there are no references to cultivation shown in other materials. Also, the operations manual references no weapons on-site, but the general notes on the title sheet of the plans implies weapons will be on-site. Amend the submittal materials to clarify these discrepancies.
 10. Note in the employee manual that the City of Lemon Grove must authorize revisions to the manual.
 11. A drainage study shall be required if drainage patterns are altered.
 12. Drainage on-site shall drain into landscape areas prior to exiting the site.
 13. Provide a completed and signed Hazardous Materials Management Plan Questionnaire (attached).
 14. Provide Live Scan background checks for all operators, directors, employees, and volunteers submitted directly to City of Lemon Grove business license clerk for processing.
 15. Provide a statement of information, by-laws and operating agreement for Kim Investments LLC.
 16. Provide a valuation estimate for improvements proposed on-site.
 17. Provide exterior elevation plans and amend the site plan to include all proposed signage on-site including design, size, color, type and location. Include any images proposed.
 18. Amend the site and floor plan to show deliveries and pick ups for cash and marijuana. A secured vehicle staging is preferred.
 19. Show proposed seating as a part of the floor plan.

Additional comments may be provided upon receipt of the above referenced items. Please feel free to call me during counter hours (8am-10am and 3pm-5:30pm) at (619) 825-3812 if you have any questions.

Sincerely,



David De Vries
Development Services Director

CC: ZCM-170-0001 File

Enclosures:
Completed Planning Permit Submittal Checklist (MMD)
Hazardous Materials Management Plan Questionnaire
Landscape and Irrigation Bulletin 21



PLANNING PERMIT SUBMITTAL CHECKLIST (MEDICAL MARIJUANA DISPENSARY)

Development Services Department / Planning Division
3232 Main Street, Lemon Grove, CA 91945
Phone: 619-825-3805 Fax: 619-825-3818
www.lemongrove.ca.gov

Completed by David DeVries 1/4/18

Consult with a planner to check the items required for your initial submittal. Thereafter, submit all of the items required with your planning permit application. Include this form completed and signed with the submittal. Applications deficient of any checked items may prohibit your submittal. Titles, Sections and Chapters referenced re from the Lemon Grove Municipal Code (LGMC) unless otherwise noted.

OFFICE USE ONLY

COMPLETE

INCOMPLETE

PLAN PREPARATION GUIDELINES

- | | | | |
|-------------------------------------|--|---|---|
| <input checked="" type="checkbox"/> | Submit <u>8</u> sets of plans folded to 8 1/2 X 11. | X | |
| <input checked="" type="checkbox"/> | First sheet shall clearly state scope of work for entire project, including renovated landscape areas, and existing building(s) size(s) and land use(s). | | X |
| <input checked="" type="checkbox"/> | All plans shall be drawn on uniform sheets. | X | |
| <input type="checkbox"/> | Development plans shall be prepared by an architect or civil engineer licensed to practice in the State of California. | | |
| <input checked="" type="checkbox"/> | All plans/maps shall be clearly labeled with sheet title, project name and project location. | X | |
| <input checked="" type="checkbox"/> | Completed application forms and fees. | X | |
| <input checked="" type="checkbox"/> | All plans shall be clear, scaled to a standard architect's or engineer's scale (1"=16' prohibited), and legible. | X | |
| <input checked="" type="checkbox"/> | All plan sheets (site, floor plans, elevations, landscape, grading, etc.) shall be consistent with each other. | X | |

SITE PLAN (see sample attached)

- | | | | |
|-------------------------------------|--|---|---|
| <input checked="" type="checkbox"/> | Full compliance with Title 17 is required. This includes minimum parking, loading space, and landscape requirements. | ? | X |
| <input checked="" type="checkbox"/> | Clearly state scope of work for entire project, including renovated landscape areas, and existing building(s) size(s) and land use(s). | | X |
| <input checked="" type="checkbox"/> | Date of preparation and/or revisions. | X | |
| <input type="checkbox"/> | Precise legal description. | | X |
| <input checked="" type="checkbox"/> | North arrow oriented towards the top of the sheet and a legend identifying any symbols. | X | |
| <input checked="" type="checkbox"/> | Property line and dimensions. | X | |
| <input checked="" type="checkbox"/> | A vicinity map showing the precise location of the project. Show nearest cross streets on all sides of the project site, with approximate distances from the site. | X | |
| <input checked="" type="checkbox"/> | Show adjacent streets (distance between property line and centerline of streets). | X | |
| <input type="checkbox"/> | Street cross-sections. | | |
| <input checked="" type="checkbox"/> | Right-of-way width, including existing width and area proposed to be dedicated. | | X |
| <input checked="" type="checkbox"/> | Dimensions and nature of all easements, labeled with recordation number. | | X |
| <input checked="" type="checkbox"/> | Existing topography on site with drainage flow lines, including natural ground (contours), trees, and drainage courses. | | X |
| <input type="checkbox"/> | Conceptual grading. Use San Diego Regional Standard Drawings for grading specifications. | | |
| <input checked="" type="checkbox"/> | Street improvements (existing & proposed) fronting the property, including curbs, gutter, sidewalks, water lines, sewer lines, utility poles, fire hydrants, and street lights. Use San Diego Regional Standard Drawings for street specifications. A street dedication, street improvements, and overhead utility grounding may be required. Please reference Chapter 12.10 | | X |

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<input checked="" type="checkbox"/>	Utility locations.		X
<input checked="" type="checkbox"/>	Location and dimensions of existing and proposed buildings and structures.		X
<input type="checkbox"/>	Improvements, property boundaries, and Map #s within 100 feet of the subject site.		
<input checked="" type="checkbox"/>	Parking layout with labeled stall size and location, aisles, driveway approaches, curb cuts, pedestrian access, and utility vehicle access.	X	
<input checked="" type="checkbox"/>	Handicap parking spaces and loading zones.	X	
<input checked="" type="checkbox"/>	Location, height, and materials of walls and fences (existing and proposed).		X
<input checked="" type="checkbox"/>	Location of refuse areas, including wall and fence heights, and materials.	X	
<input type="checkbox"/>	Location of any outdoor storage areas and screening devices.		
<input checked="" type="checkbox"/>	Required and proposed setback dimensions and building separations.		X
<input checked="" type="checkbox"/>	Conceptual landscape & irrigation labeled with irrigation location and type, plant species, size, and location, and ground cover type and depth below grade in compliance with Chapter 18.44. Location of all existing and proposed trees. Identify whether the trees are to be preserved, relocated or removed. Use San Diego Regional Standard Drawings for specifications. <i>see landscape bulletin 21 attached.</i>		X
<input checked="" type="checkbox"/>	Label and dimension all surface improvements (e.g., walkways, driveways, patios, landscape areas). Note where existing topography is sloped or flat with drainage flow arrows.		X
A tabular summary including the following:			
<input checked="" type="checkbox"/>	Gross and net acreage.	X	
<input checked="" type="checkbox"/>	Gross floor area per building or unit and total floor area for all buildings.	X	
<input checked="" type="checkbox"/>	Proposed density (dwelling units per net acre for residential subdivisions and floor area ratio for commercial and industrial developments).	X	
<input checked="" type="checkbox"/>	Lot Coverage Ratio (percentage of site covered by all buildings and structures).	X	
<input checked="" type="checkbox"/>	Pervious Surface Coverage Ratio (post and pre-development percentage of lot covered by pervious surfaces).		X
<input checked="" type="checkbox"/>	Required and proposed number of parking spaces, (covered, uncovered, and handicapped accessible, as applicable).		X
FLOOR PLAN		X	
<input checked="" type="checkbox"/>	Interior layout (labeled) and dimensions of all levels.	X	
<input type="checkbox"/>	Finished floor elevation of ground floors.		
<input checked="" type="checkbox"/>	Proposed demolition, provide square feet to be demolished.	X	
<input checked="" type="checkbox"/>	Location of all openings (windows and doors).	X	
ROOF PLAN		X	
<input type="checkbox"/>	Dimensions of roof overhang(s).		
<input checked="" type="checkbox"/>	Location of rooftop equipment and screening.		X
EXTERIOR ELEVATIONS			
<input checked="" type="checkbox"/>	Illustrative elevations of all sides of all buildings and structures.		X
<input type="checkbox"/>	Proposed and existing roof and siding materials labeled on each sheet of the elevations. Note if roof and siding materials will match existing buildings on-site.		
<input checked="" type="checkbox"/>	Proposed and existing building colors labeled on each sheet of the elevations.	X	
<input checked="" type="checkbox"/>	Heights of all structures (measured from average finished grade to peak of roof). Show finish floor MSL, finish pad MSL, finished grade, average finished grade, spot elevations within 5' of building footprint and dimensions to highest points of structure.	X	
<input checked="" type="checkbox"/>	Conceptual sign locations, sizes and type.		X
<input checked="" type="checkbox"/>	Roof top equipment and screening treatment for rooftop equipment.		X
<input type="checkbox"/>	Cross sections and architectural details.		
ADDITIONAL REQUIREMENTS			
<input checked="" type="checkbox"/>	Environmental Initial Study application.	X	

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<input checked="" type="checkbox"/>	Interior/Exterior site photographs.		X
<input type="checkbox"/>	Photo Simulation/Perspective Drawing: A photo simulation or perspective drawing may be required in addition to photos.		
<input type="checkbox"/>	View/Line of Sight Study: A view/line of sight study may be required to show the project has adequate line of sight for vehicular circulation. This study shall be prepared and stamped by a licensed civil engineer.		
<input checked="" type="checkbox"/>	Preliminary title report and copies of recorded documents listed in <u>Schedule B</u> and easements plotted on an APN map. <i>exceptions</i>		X
<input type="checkbox"/>	Chain of Title		
<input checked="" type="checkbox"/>	Copy of County Assessor Building Construction Records	X	
<input type="checkbox"/>	Licensed Land Survey		
<input checked="" type="checkbox"/>	Phase I and II Environmental Assessments <i>(demolition includes ground disturbance)</i>		X
<input type="checkbox"/>	Biological Assessment		
<input type="checkbox"/>	Cultural Resource Assessment		
<input checked="" type="checkbox"/>	Air Quality Study <i>if carbon filters and HVAC are not proposed.</i>		X
<input checked="" type="checkbox"/>	Parking Study by a <i>licensed traffic engineer.</i>		X
<input checked="" type="checkbox"/>	STORMWATER BMPS. Intake Forms I-1, I-2, and I-3 must be filled out as applicable to the project. Projects requiring submittal of Form I-1 only are required to submit a complete Form I-1. Projects requiring submittal of Form I-2 require Construction Stormwater BMP Notes and Permanent Stormwater BMP Notes on their site plan. Projects requiring submittal of Form I-3 must provide a Storm Water Quality Management Plan and for projects without a Grading Plan, a separate Construction BMP Plan is required (pre- and post-construction impervious area is required to be shown on the plans).	X	
<input type="checkbox"/>	Geotechnical Study		
<input type="checkbox"/>	Acoustical Analysis/Noise Study		
<input checked="" type="checkbox"/>	Traffic Analysis <i>by a licensed traffic engineer.</i>		X
<input type="checkbox"/>	Conceptual Grading Plan. Use San Diego Regional Standard Drawings for grading specifications.		
<input checked="" type="checkbox"/>	Conceptual Landscape & Irrigation Plans labeled with irrigation location and type, plant species, size, and location, and ground cover type and depth below grade in compliance with Chapter 18.44. Location of all existing and proposed trees. Identify whether the trees are to be preserved, relocated or removed. Use San Diego Regional Standard Drawings for specifications. <i>see bulletin attached</i>		X
<input checked="" type="checkbox"/>	Other materials as required (Reference Chapter 17.32 of the LGMC for further details): <input checked="" type="checkbox"/> Completed City business license application (City of Lemon Grove Form) <input checked="" type="checkbox"/> Dispensary Operations Manual and Standards including transaction and employee handling instructions and curriculum <input checked="" type="checkbox"/> Employee training manual <input checked="" type="checkbox"/> Live Scan background checks for all directors, employees, and volunteers submitted on a form provided by the City of Lemon Grove with appropriate fees paid. <input checked="" type="checkbox"/> Names and contact information for dispensary director and community liaison <input checked="" type="checkbox"/> Names and contact information for all officers of any LLC with any ownership interest or operational interest in the proposed medical marijuana dispensary. <i>See notes</i> <input checked="" type="checkbox"/> Lighting plan <input checked="" type="checkbox"/> Fire flow analysis <input checked="" type="checkbox"/> Waste disposal plan <input checked="" type="checkbox"/> A weapons storage and use plan <i>see notes</i> <input checked="" type="checkbox"/> Architect investigation and scope of work including requirements for proper ventilation to prevent mold and reduce odors to below a level of significance. Facility shall be in full compliance with Title 15 of the Municipal Code. <i>See notes</i> <input checked="" type="checkbox"/> State Board of equalization seller's permit *Continued to Next Page		X

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- X

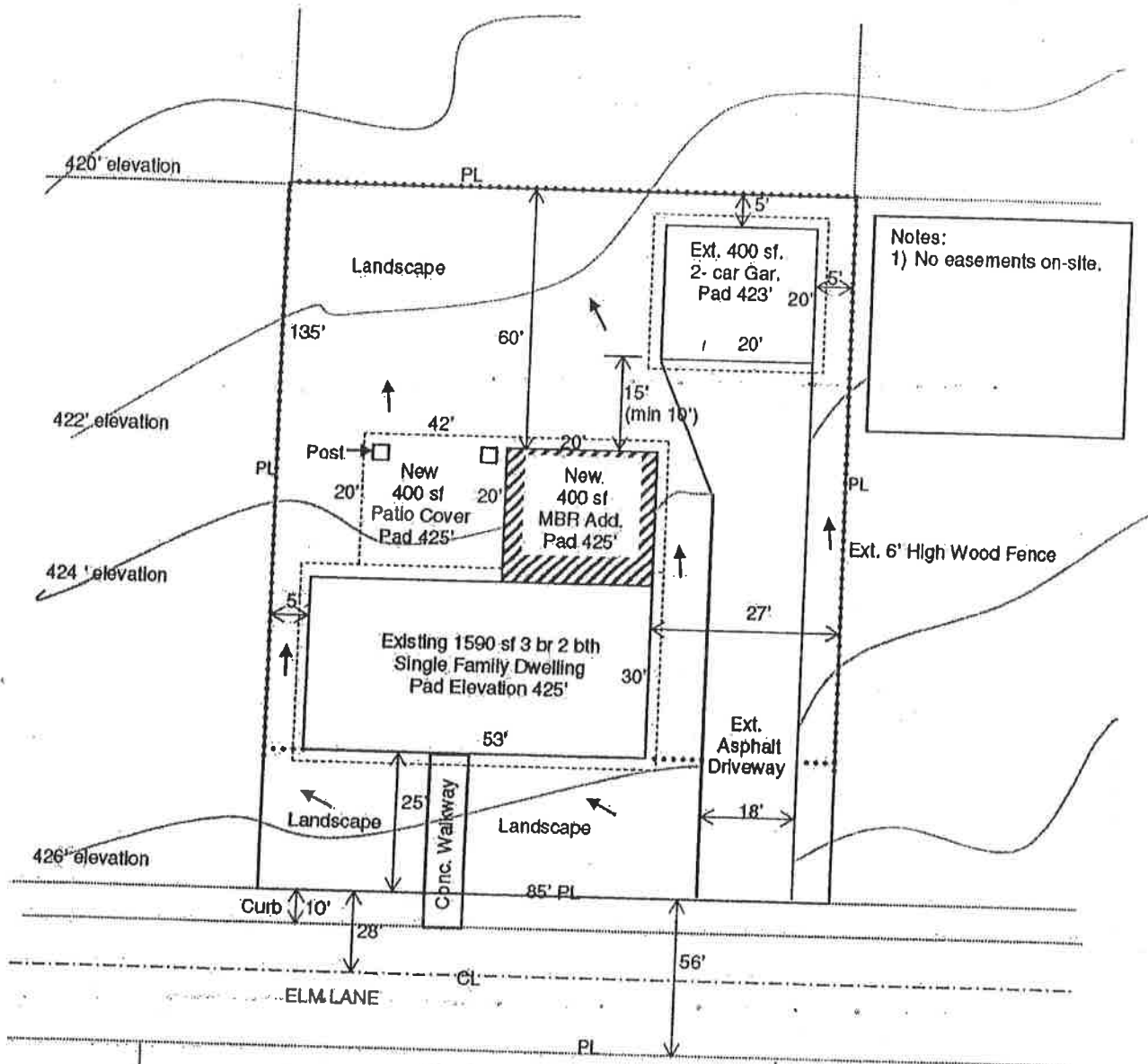
See notes in letter dated 1/4/18.

DECLARATION

Date:

Name (print or type):

SAMPLE SITE PLAN



Notes:
1) No easements on-site.

SITE ADDRESS:
APN:

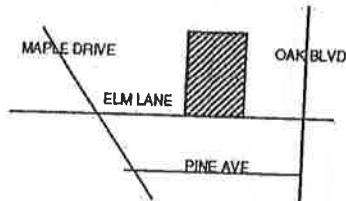
EXISTING CONDITIONS: 1590 sf SFR w/
400 sf 2-car garage

SCOPE OF WORK: 400 sf MBR Addition
and 400 sf Patio Cover

OWNER:
NAME, MAILING ADDRESS, PHONE, EMAIL

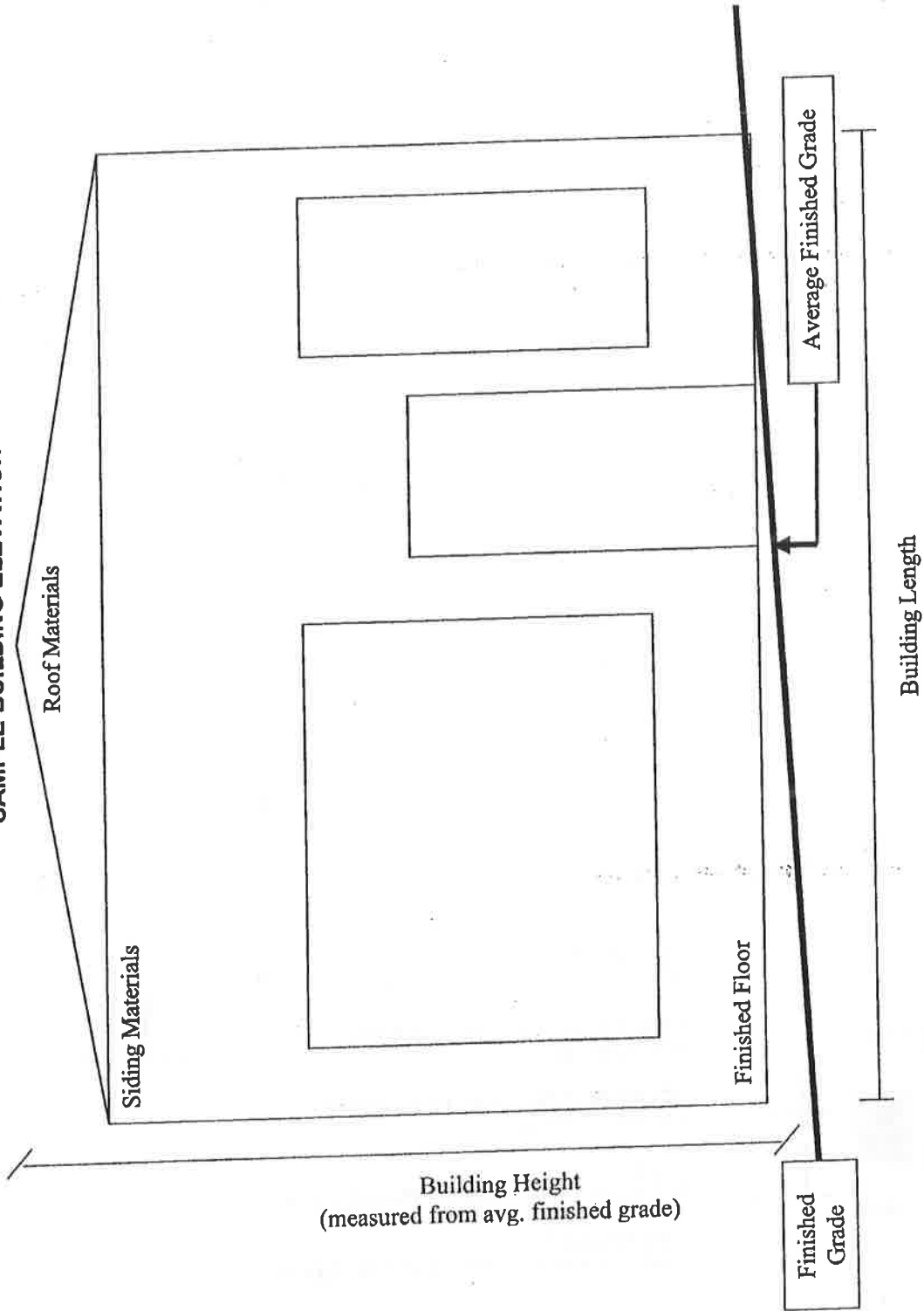
PREPARED BY:
NAME, MAILING ADDRESS, PHONE, EMAIL

VICINITY MAP
NO SCALE



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SAMPLE BUILDING ELEVATION



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HEARTLAND FIRE & RESCUE

SERVING THE CITIES OF EL CAJON, LA MESA AND LEMON GROVE

Hazardous Materials Management Plan Questionnaire

This form is provided by Heartland Fire & Rescue fire prevention staff to determine the amounts of hazardous materials stored on site. Please indicate the types and quantities of hazardous materials that are used and stored on site. Please indicate the unit of measurement used for the quantity. *LB – Pounds, GAL – Gallons, and CF – Cubic Feet

Indoor Storage of Hazardous Materials

Amounts

	Yes	No	Quantity	LB/GAL/CF*	MAQ
1. More than 30 gallons of flammable liquids	<input type="checkbox"/>	<input type="checkbox"/>			
a. Class IA flash point <73°F and boiling point <100°F					30
b. Class IB flash point <73°F and boiling point >100°F					120
c. Class IC flash point >73°F and boiling point <100					120
2. More than 120 Gallons of combustible liquids	<input type="checkbox"/>	<input type="checkbox"/>			
a. Class II closed cup flash point >100°F and <140°F					120
b. Class IIIA closed cup flash point >140°F and <200°F					330
c. Class IIIB closed cup flash point >200°F					13200
3. More than 45 gallons of flammable cryogenics	<input type="checkbox"/>	<input type="checkbox"/>			45
4. More than 1,000 cubic feet of flammable gas	<input type="checkbox"/>	<input type="checkbox"/>			1000
5. More than 125 pounds of flammable solids	<input type="checkbox"/>	<input type="checkbox"/>			125
6. Explosives in any amount	<input type="checkbox"/>	<input type="checkbox"/>			1
7. Inert gas in any amount	<input type="checkbox"/>	<input type="checkbox"/>			N/A
8. Organic peroxide in any amount	<input type="checkbox"/>	<input type="checkbox"/>			1
9. Oxidizer in any amount	<input type="checkbox"/>	<input type="checkbox"/>			1
10. More than 1,500 cubic feet of an oxidizing gas	<input type="checkbox"/>	<input type="checkbox"/>			1500
11. More than 4 cubic feet of pyrophoric chemical	<input type="checkbox"/>	<input type="checkbox"/>			4
12. Unstable (reactive) chemical in any amount	<input type="checkbox"/>	<input type="checkbox"/>			1
13. More than 5 cubic feet/pounds of an water reactive material	<input type="checkbox"/>	<input type="checkbox"/>			5
14. More than 5,000 solid pounds or 500 gallons of a corrosive	<input type="checkbox"/>	<input type="checkbox"/>			500
15. More than 10 solid pounds of a highly toxic chemical	<input type="checkbox"/>	<input type="checkbox"/>			10
16. More than 500 pounds of toxic chemicals	<input type="checkbox"/>	<input type="checkbox"/>			500

MAQ section is for Fire Department use only

Address: _____ Business Name: _____

Name of person completing this form: _____ Title: _____

Signature: _____ Date: _____



LANDSCAPE & IRRIGATION

Development Services Department
3232 Main Street, Lemon Grove, CA 91945
Phone 619-825-3805
www.lemongrove.ca.gov

INFORMATION
BULLETIN

21

June 2016

The following regulations apply to all new and renovated landscape areas which require submittal of a building, planning, or landscape permit application and appropriate fees, however, new plantings and additions to existing irrigation systems are considered to be maintenance with no permit requirements provided the existing landscape and irrigation system is not substantially renovated. **Please reference Sections 17.24.050 and 18.08.130 and Chapter 18.44 of the Municipal Code for further clarification and exceptions associated with the requirements herein.**

Applications shall include a landscape documentation package that contains the following elements:

1. Planting and irrigation plans that describe the landscaping (size, type, water use classification [WUCOLS], and location) and irrigation (type and location) for the project. The plans shall include the following notes and schematics:
 - a. Installations shall be per San Diego Regional Standard Drawings (appropriate drawings shall be added to plans).
 - b. A pre-inspection prior to installation is required to inspect: 1) the irrigation, root barrier, ground cover, and planting excavations, 2) the compost and soil materials prior to blending, and 3) the irrigation, root barrier, ground cover, and planting materials. Contact the project planner for an inspection.
 - c. A final inspection is required after installation to inspect: 1) irrigation locations, types and flows, 2) planting locations, types and sizes, 3) ground cover depth, and 4) root barrier and tree staking installations. Contact the project planner for an inspection.
 - d. Holes for plantings shall be excavated slightly shallower and a minimum of two times the width of the root ball or container. The root ball shall be set so that the top of the root ball will sit slightly higher than the final grade.
 - e. Compost shall be uniformly blended with excavated soil at a ratio of one part compost (one-third) per two parts soil (two-thirds). The compost-soil blend shall be backfilled around the root ball within the planting hole.
 - f. Turf and shallow planting areas shall include compost at a minimum depth of one inch and the area shall be tilled to a minimum five inches in depth.
 - g. Plantings shall be thoroughly watered during and after plantings.
 - h. Nonvegetated natural ground cover shall be a minimum of three inches deep and shall be one inch below surrounding paved surfaces.
 - i. New impervious surfaces shall direct storm water drainage to landscape areas.
 - j. Storm water shall not be diverted to flow onto adjacent property, nonirrigated areas, structures, walkways, roadways, or other paved areas, whether due to runoff, low head drainage, overspray, or other similar condition unless approved by the Engineering Division.
 - k. Water use shall conform to the Maximum Applied Water Allowance (MAWA).
 - l. Best Management Practices shall be implemented at all times.

- m. Each person issued a landscape approval shall submit a signed certificate of completion, under penalty of perjury, on a form provided by the city.
2. Minimum plantings per landscape area are required as follows:
- a. An area shall be devoted to landscaping which amounts to a minimum of fifteen percent of total lot area in residential developments, and ten percent of the total lot area in nonresidential developments.
 - b. Landscape areas may consist of very low and low water use plant materials per WUCOLS.
 - c. Landscape areas consisting of moderate and high water use plant materials per WUCOLS shall not exceed a ratio of 1 part planting area (one-third) per 2 parts of no water use natural nonvegetated ground cover (two-thirds). Alternative landscapes not in compliance with this regulation are allowed provided they comply fully with the State MWELO.
 - d. A minimum of 25 percent of the landscape area shall consist of vegetated plant materials.
 - e. A minimum of one 15 gallon tree shall be provided per 1,000 sq. ft. of landscape area (existing trees included).
 - f. A minimum of 100 sq. ft. of edible planting area or one 15 gallon fruit or nut tree shall be planted for each dwelling unit, but for no more than five dwelling units on a single lot.
 - g. For all off-street parking areas of five or more spaces, an area equivalent to a minimum of ten percent of the area provided for parking shall be landscaped. Such landscaping shall be considered as a portion of the landscaping required for the entire lot. As part of this landscaping, one tree for every six parking spaces, or fraction thereof, shall be provided and located so as to visually disrupt long rows of parked automobiles. These trees shall be at least fifteen gallons in size, may be clustered and shall be provided with a means of irrigation and properly maintained.
3. Slopes greater than twenty-five percent shall be irrigated with an irrigation system with a precipitation rate of 0.75 inches per hour or less to prevent runoff and erosion. An applicant may employ an alternative design if the plan demonstrates that no runoff or erosion will occur.
4. All wiring and piping under a paved area that a vehicle may use, such as a parking area, driveway or roadway, shall be installed inside a PVC conduit.
5. Irrigation piping and irrigation devices within twenty-four inches of a vehicle or pedestrian use area and that deliver water, such as sprinkler heads, shall be installed below grade. The director may allow on-grade piping where landform constraints make below grade piping infeasible.
6. Low volume or subsurface irrigation shall be used to irrigate any vegetation within twenty-four inches of an impermeable surface unless the adjacent impermeable surfaces are designed and constructed to cause water to drain entirely into a landscaped area.
7. A manual shutoff valve shall be installed as close as possible to the water supply. Additional manual shutoff valves shall be installed between each zone of the irrigation system and the water supply.
8. New irrigation systems shall include an automatic irrigation controller and consist of drip or microspray systems.
9. High-efficiency, matched-precipitation rate sprinkler nozzles shall be required at all homes (residential landscapes), common areas, parks, and commercial/industrial landscapes.
10. Dedicated meters for outdoor water use shall be required as follows:
- a. In single-family residences with one or more acre(s) of irrigated landscape,
 - b. In all parks and common areas,

- c. In commercial, industrial, government, and multi-family sites with 5,000 square feet or more of irrigated landscape;
- 11. Enroll all new irrigation meters (except those at single-family residences) in the Helix Water Budget Program and provide documentation of irrigated landscape area at the time of meter purchase.
- 12. Pervious and porous surfaces that minimize runoff shall be encouraged.
- 13. New roofs shall be encouraged to direct storm water to landscape areas or to water capture and reuse containers.
- 14. Except in RL and RL/M districts, all planting areas shall be bounded by a curb having a minimum height of six inches.
- 15. If grading is proposed, the following shall be included:
 - a. A grading plan that complies with Sections 18.08.130 and 18.08.070.
 - b. All slopes shall include an irrigation system which shall be used by the permittee to promote the growth of plants to protect the slopes against erosion. The plan shall show the finished configuration and elevations of each landscaped area including the height of graded slopes, the drainage pattern, pad elevations, finish grade and any stormwater retention improvements.
 - c. The landscape documentation package shall be prepared by a licensed landscape architect.
 - d. Provide a soil management report that provides the analysis of the soil within each landscaped area of the project and makes recommendations regarding soil additives.

After approval of a landscape and irrigation plan, the owner is required to:

- 1. Maintain and operate the landscaping and irrigation system on the property.
- 2. Replace broken or malfunctioning irrigation system components with components of the same materials and specifications, their equivalent or better.
- 3. Ensure that when vegetation is replaced, replacement plantings are consistent with regulations in this Chapter.

Please coordinate with the Planning Division regarding questions.

EXHIBIT 3
January 26, 2017 Status Email

Austin, Gina

From: Susan Garcia <sgarcia@lemongrove.ca.gov>
Sent: Friday, January 26, 2018 7:30 AM
To: Austin, Gina
Subject: FW: Lemon Grove Public records request MMD Status Summary

Gina, I apologize for any delay, I was off a couple of days this week.

Respectfully,
Susan

Susan Garcia, City Clerk
City of Lemon Grove | 3232 Main Street | Lemon Grove, California 91945
Phone: 619.825.3841 | Fax: 619.825.3818 |
www.lemongrove.ca.gov

From: David DeVries
Sent: Thursday, January 25, 2018 2:03 PM
To: Susan Garcia <sgarcia@lemongrove.ca.gov>
Subject: Lemon Grove Public records request MMD Status Summary

Here's the most recent update on MMD applications updated summary for the PRA. I highlighted the sites that are still eligible.

Medical Marijuana Dispensary Applications Updated 1/24/2018					
PROJECT NUMBER	ADDRESS	APPLICANT	CONTACT	PROPERTY OWNER	STATUS
ZC1-700-0002 Submitted 3/20/17 CUP-180-0002 Submitted 1/22/18	6859 Federal Blvd.	Federal and College Group, Inc.	Nidia Castaneda	Federal and College LLC 6859 Federal	Zoning Clearance Deemed complete: Meets distance restrictions. CUP status: in review.
ZC1-700-0003 Submitted 3/20/17	3515 & 3521 Harris St.	LG Wellness, LLC Jessica McElfresh 12555 High Bluff Drive, Suite 30 San Diego, CA 92130	Jessica McElfresh 12555 High Bluff Drive, Suite 30 San Diego, CA 92130	RRJJ, LLC	Denial letter sent 3/21/17: distance restrictions

**Medical Marijuana Dispensary Applications
Updated 1/24/2018**

PROJECT NUMBER	ADDRESS	APPLICANT	CONTACT	PROPERTY OWNER	STATUS
ZC1-700-0004 Submitted 3/20/17 CUP-170-0001 Submitted 10/4/17	6470 Federal Blvd.	Sean McDermott	Sean McDermott	Wing Avenue Investment, LLC Keith Anderson	Zoning Clearance Deemed complete: Meets distance restrictions. CUP Notice of Corrections sent 11/7/17.
ZC1-700-0005 Submitted 3/21/17	3475 Lemon Grove Ave.	Nature Nurse, Inc. Ryan Goldman	Ryan Goldman	Goldman Family Trust	Denial letter sent 3/23/17: MMD's not permitted in CC zone.
ZC1-700-0006 Submitted 3/21/17	7309 Broadway	Marty Frank	Elidia C. Dostal Law Offices of Elidia C. Dostal, APC 3170 Fourth Avenue, Suite 250 San Diego, CA 92103 619.254.8939 elidia@ecdlawoffices.com www.ecdlawoffices.com	John Marks	Does not meet distance restrictions. Denial letter sent 4/3/17. Admin. Appeal filed on 4/5/17. Denial upheld by City Council on July 18, 2017.
ZC1-700-0007 Submitted 3/21/17	6302 Federal Blvd.	Rakesh Goyal	Rakesh Goyal	Starr Skinner	Does not meet distance restrictions. Denial letter sent 4/3/17.
ZC1-700-0008 Submitted 3/27/17	6360 Federal Blvd.	Adam Knopf	Alan Austin	Terry and Deborah Mammen Family Trust	Does not meet distance restrictions. Denial letter sent 4/3/17. Application withdrawn by property owner 4/26/17.
ZC1-700-0009 Submitted 3/27/17	3494 & 3510 Harris St.	Adam Knopf	Abhay Schweitzer	Elliott Family Trust	Does not meet distance restrictions. Denial letter sent 4/3/17. Attempted to appeal denial but did not file appeal within 10-day period.
ZC1-700-0010 Submitted 3/30/17	8249 Broadway	Rodi Mikha	Jessica C. McElfresh P.O. Box 230363 Encinitas, CA 92023	Rodi Mikha	Does not meet distance restrictions. Denial letter sent 4/3/17 Admin. Appeal filed on 4/12/17. Continuance requested. Set for City Council public hearing on 8/15/17. Application withdrawn on 8/14/17.

Medical Marijuana Dispensary Applications
Updated 1/24/2018

PROJECT NUMBER	ADDRESS	APPLICANT	CONTACT	PROPERTY OWNER	STATUS
ZC1-700-0011 Submitted 4/3/17	8247 Broadway	Blake Marchand	Blake Marchand	S&S Nelson Family Ltd. Partnership	Does not meet distance restrictions. Denial letter sent 4/6/17.
ZC1-700-0012 Submitted 4/6/17	8260 Broadway	Pick Axe Holdings, LLC Christopher Williams	Pick Axe Holdings, LLC Christopher Williams	Mattar Family Trust of 1990	Does not meet distance restrictions. Denial letter sent 4/17/17. Appeal filed on 4/20/17. Continuance requested. Set for City Council Public Hearing on 8/15/17. Denial upheld by City Council on 8/15/17.
ZC1-700-0013	3536 Olive Street	Brian R. Booth	Urban City	Francisco Corral	Does not meet distance restrictions. Denial letter sent 4/24/17.
ZC1-700-0016 Submitted 6/1/17 CUP-180-0001 Submitted 1/18/18	6915 North Ave.	Pick Axe Holdings, LLC Christopher Williams	Pick Axe Holdings, LLC Christopher Williams Appeal Contact: Gina Austin gaustin@austinlegalgroup.com	Mattar Family Trust of 1990	Does not meet distance restrictions. Denial letter sent 6/13/17. Appeal filed on 6/21/17. Set for City Council Public Hearing on 8/15/17 and continued to 9/19/17. City Council determined that MMD meets distance requirements on 9/19/17. Application deemed complete. CUP status: in review.
ZC1-700-0017 Submitted 7/6/17	2295 Lemon Grove Way	Pick Axe Holdings, LLC Christopher Williams	Pick Axe Holdings, LLC Christopher Williams	MAVA	Does not meet distance restrictions. Denial letter sent 8/3/17. Attempted to appeal denial but did not file appeal within 10-day period.
ZC1-700-0018 Submitted 9/12/17	8280 Broadway	Pick Axe Holdings, LLC Christopher Williams	Pick Axe Holdings, LLC Christopher Williams	Mattar Family Trust of 1990	Does not meet distance restrictions. Denial letter sent 10/11/17.
ZCM-170-0001 Submitted 10/16/17	7303 Broadway	7303 Broadway Inc. c/o Chris Francy	7303 Broadway Inc.	Ateteh Majdiyazdi	Deemed incomplete: Meets distance restrictions.

Medical Marijuana Dispensary Applications
Updated 1/24/2018

PROJECT NUMBER	ADDRESS	APPLICANT	CONTACT	PROPERTY OWNER	STATUS
ZCM-170-0002 Submitted 12/6/17	3515 Harris	Kim Investments LLC Jilette Yousif	Gina Austin	RRJJ, LLC Jilette Yousif	Deemed incomplete: Meets distance restrictions.

Thanks,

David B. De Vries, AICP
Development Services Director
City of Lemon Grove
Development Services Department
3232 Main St.
Lemon Grove, CA 91945
(619) 825-3812 phone
(619) 825-3818 fax
ddevries@lemongrove.ca.gov
www.lemongrove.ca.gov

EXHIBIT 4
City Denial Letter



CITY OF LEMON GROVE

Development Services Department

"Best Climate On Earth"

Date: February 15, 2018

KIM Investments, LLC
RRJJ, LLC
Attn: Jilette Yousif
2221 Camino Del Rio South # 207
San Diego CA 92108

Gina Austin
3990 Old Town Ave., Ste. A112
San Diego, CA 92110

SUBJECT: Notice of Denial for Zoning Clearance Application ZCM-170-0002 for property located at 3515 Harris Street, in the City of Lemon Grove (APN:479-052-07-00).

Mr. Yousif and Ms. Austin,

On February 7, 2018, staff received a resubmittal package for subject application to establish a medical marijuana dispensary (MMD) at the subject property in the City of Lemon Grove. Thereafter, **we received evidence that there is a new State-licensed family daycare home within 1,000 feet of the subject property which disqualifies the subject property from eligibility for a conditional use permit and the application is therefore denied.** The application package resubmittal will not be reviewed since the application is denied.

As reflected in Bulletin 23, the zoning clearance process for a marijuana dispensary is twofold: 1) Does the application meet separation requirements from permitted marijuana dispensaries and protected uses; and 2) Is the application provided complete. Once these two reviews are satisfied, the applicant is eligible to submit a conditional use permit. Staff recommended this process to City Council at the March 7, 2017 City Council meeting. The process is such, so that when a conditional use permit is applied for after zoning clearance approval notice of complete, staff can then take in the \$1,500 deposit and updated application form and route the application, plans and materials to the various reviewing departments for corrections and/or conditions if any.

In order for staff to process a conditional use permit application for a MMD, the application must include all of the information required by Chapter 17.32 of the Lemon Grove Municipal Code, as well as the items listed on the City's MMD Planning Permit Checklist. Additionally, the location of the proposed MMD must comply with the zoning requirements and distance restrictions contained within Chapter 17.32. If any of the required items are missing, or if the proposed location does not meet the zoning requirements and distance restrictions, then staff cannot process a conditional use permit application. Please review the requirements of Chapter 17.32 and the MMD Planning Permit Checklist prior to submitting another application. Please also verify that the site chosen meets the distance restrictions established by Chapter 17.32. Staff's decision to deny this application may be appealed to the Lemon Grove City Council pursuant to Lemon Grove Municipal Code, Section 17.28.020(I). Appeals must be filed in writing within 10 calendar days of the date on this denial letter and must include a filing fee of \$75.00. Appeals must be filed using forms provided by the Development Services Department.

Please feel free to call me during counter hours (8am-10am and 3pm-5:30pm) at (619) 825-3812 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'David De Vries', with a long horizontal line extending to the right.

David De Vries
Development Services Director

CC: ZCM-170-0002 File

EXHIBIT 5
Childcare License

LIS055M LICENSING INFORMATION SYSTEM - FACILITY PROFILE DATE: 02/21/18

EVALUATOR: Q405 DO: 20 FAC NBR: 37 6627345 STATUS: LICENSED
FAC NAME: PINTOR, KRISTINA FAMILY CHILD CARE CAPACITY: 0008
FAC ADDR: 3335 CITRUS STREET, LEMON GROVE, CA 91945
FAC MAIL: 3335 CITRUS STREET, LEMON GROVE, CA 91945
FAC TYPE: FAMILY DAY CARE CLIENT SERVED: CHILDREN/INFANT
FAC FIRST LICENSED: 02/12/18 APP REC'D: 01/09/18
COUNTY: SAN DIEGO DIRECTOR: KRISTINA PINTOR PHONE: (619)309-7230
DATE CAP CHG: DATE CAP APPR: ANNUAL FEES CURRENT: YES
LICENSEE NAME: PINTOR, KRISTINA
LIC MAIL: 3335 CITRUS STREET, LEMON GROVE, CA 91945
LIC EFF DATE: 02/12/18 TYPE: INDIVIDUAL
FAC DUAL IDENTIFIER: N DUAL LICENSE NBR: FCRB: . .
COMMENTS MAX. CAP(WHEN THERE IS AN ASSISTANT PRESENT): 12 - NO MORE THAN
4 INFANTS. CAP 14 - NO MORE THAN 3 INFANTS. 1 CHILD IN
KINDERGARTEN OR ELEMENTARY SCHOOL AND 1 CHILD AT LEAST AGE 6.

FAC CLOSED DATE: E-MAIL:
LAST VISIT DATE: 02/12/18 TYPE: PRELICENSING
LAST DEFERRED VISIT DATE: TYPE:
SPH: 000 REQ VISIT: N
R = MENU, Y = DATES, F = SUMMARY, H = PAYMENT HISTORY, E= EMERGENCY Enter>

LIS055M LICENSING INFORMATION SYSTEM - FACILITY PROFILE DATE: 02/13/18

EVALUATOR: Q405 DO: 20 FAC NBR: 37 6627345 STATUS: PROVISIONAL LICENSE
FAC NAME: PINTOR, KRISTINA FAMILY CHILD CARE CAPACITY: 0008
FAC ADDR: 3335 CITRUS STREET, LEMON GROVE, CA 91945
FAC MAIL: 3335 CITRUS STREET, LEMON GROVE, CA 91945
FAC TYPE: FAMILY DAY CARE CLIENT SERVED: CHILDREN/INFANT
FAC FIRST LICENSED: 02/12/18 APP REC'D: 01/09/18
COUNTY: SAN DIEGO DIRECTOR: KRISTINA PINTOR PHONE: (619)309-7230
DATE CAP CHG: DATE CAP APPR: ANNUAL FEES CURRENT: YES
LICENSEE NAME: PINTOR, KRISTINA
LIC MAIL: 3335 CITRUS STREET, LEMON GROVE, CA 91945
LIC EFF DATE: 02/12/18 EXP DATE: 02/28/18 TYPE: INDIVIDUAL
FAC DUAL IDENTIFIER: N DUAL LICENSE NBR: FCRB:
COMMENTS MAX. CAP(WHEN THERE IS AN ASSISTANT PRESENT): 12 - NO MORE THAN
4 INFANTS. CAP 14 - NO MORE THAN 3 INFANTS. 1 CHILD IN
KINDERGARTEN OR ELEMENTARY SCHOOL AND 1 CHILD AT LEAST AGE 6.

FAC CLOSED DATE: E-MAIL:
LAST VISIT DATE: TYPE:
LAST DEFERRED VISIT DATE: TYPE:
SPH: 000 REQ VISIT: N
R = MENU, Y = DATES, F = SUMMARY, H = PAYMENT HISTORY, E= EMERGENCY Enter>

EXHIBIT 6
Prior City Emails

Austin, Gina

From: Austin, Gina
Sent: Monday, April 10, 2017 1:24 PM
To: 'David DeVries'; 'Eric Craig'
Cc: 'Abhay Schweitzer (abhay@techne-us.com)'
Subject: RE: 8260 Broadway MMD Zoning Clearance Submittal

David,

What you attached was my letter not a determination. As I understand it no determination has been made yet (according to my client's discussion with Eric this morning). Further, in this instance it appears the City simply mismeasured. We are requesting that the City take into account the measurements in the letter or a survey instead of denying the application. If this takes longer than usual we understand. However, it is improper to deny based upon inaccurate information when the City has been provided the correct information.

Gina

From: David DeVries [mailto:ddevries@lemongrove.ca.gov]
Sent: Monday, April 10, 2017 1:19 PM
To: Austin, Gina; Eric Craig
Cc: Abhay Schweitzer (abhay@techne-us.com)
Subject: RE: 8260 Broadway MMD Zoning Clearance Submittal

Received. This zoning clearance application has already been reviewed and a determination given (see attached).

The Municipal Code clearly points out that a zoning clearance is required for all changes in land uses. In this particular instance, a zoning clearance cannot be granted for the reasons provided. To be clear, the City will not accept a conditional use permit application without substantial evidence that the land use is in conformance with our city codes. A new zoning clearance application would be required to make this determination. Based on my review of your findings in your attached letter, no change in my determination would be given. I hope this helps.

17.12.070 Uncertainty of use classifications.

A. It is recognized that in the development of a comprehensive zoning ordinance, not all uses of land can be listed, nor can all future uses of lands be anticipated. The listings of uses permitted or permitted subject to a conditional use permit in each zone, or subject to a conditional use permit, are illustrative and meant to indicate the types and scales of development intended for each district. A use may have been omitted from the list of those specified as permissible in each of the various districts herein designated, or ambiguity may arise concerning the appropriate classification of a particular use within the meaning and intent of this chapter. Where such uncertainty exists, the development services director shall determine the appropriate classification for any such use.

17.28.020 Application procedures.

A. Purpose. This section establishes procedures for submitting and processing applications for proposed uses, structures, and/or improvements of real property, and related matters subject to this title; authorize the city to establish, modify, and collect fees, and set time limits for processing.

D. Application Submittal. Prior to submitting application packages for permits or other approvals, the applicant shall obtain a zoning clearance according to Section 17.28.070. Thereafter, application packages shall be submitted to the development services department upon a prescribed form, accompanied by applicable fees according to subsection (D)(1), and related materials necessary to show that the proposed use, structures, and/or improvements of the property

comply with applicable provisions of this code, state law, federal law and the requirements and conditions of any associated permit. Each application filed by, or on behalf of, one or more property owners shall be verified by at least one such owner or the owner's authorized agent attesting to the truth and correctness of all facts, statements, and information presented.

17.28.070 Zoning clearances.

A. Purpose. This section establishes procedures for conducting a zoning clearance review to ensure that all proposed uses, structures, and/or improvements comply with the applicable requirements of this code. The zoning clearance serves as a record of compliance. Prior to, or concurrent with, submitting an application for any business license, building permit, improvement, subdivision, or other change in use, the applicant shall obtain a zoning clearance. A zoning clearance also serves as a record of decisions for proposed uses, structures, and/or improvements, which may not require additional approvals or permits in this code.

B. Exemptions. To the extent allowed by law, applications for miscellaneous building permits, at the determination of the development services director, shall be exempt from this chapter.

C. Application Procedures. Application packages for zoning clearances shall be processed according to Section 17.28.020. Development services department staff shall process and decide zoning clearance applications ministerially. (Ord. 434 § 5, 2015; Ord. 386 § 3, 2009)

Thanks,

David B. De Vries, AICP
Development Services Director
City of Lemon Grove
Development Services Department
3232 Main St.
Lemon Grove, CA 91945
(619) 825-3812 phone
(619) 825-3818 fax
ddevries@lemongrove.ca.gov
www.lemongrove.ca.gov

From: Austin, Gina [<mailto:gaustin@austinlegalgroup.com>]
Sent: Monday, April 10, 2017 12:50 PM
To: David DeVries <ddevries@lemongrove.ca.gov>; Eric Craig <ecraig@lemongrove.ca.gov>
Cc: Abhay Schweitzer (abhay@techne-us.com) <abhay@techne-us.com>
Subject: 8260 Broadway MMD Zoning Clearance Submittal
Importance: High

David,

Please see attached correspondence relative to the MMD Zoning Clearance submittal for 8260 Broadway. As explained in more detail in the attached letter, St. John of the Cross Catholic School is more than 1000' property line to property line (without consideration of intervening structures.) As such, we are requesting the City re-assess its measurements and issue the appropriate zoning clearance determination.

If required, the applicant will submit a survey by a certified engineer. In either instance, we are requesting that the application continue to move forward through the CUP process as the application was both for zoning clearance and a CUP.

Thank you

Gina

Gina M. Austin

AUSTIN LEGAL GROUP, APC | 3990 Old Town Ave., Ste A112, San Diego, CA 92110 |

Ofc: 619-924-9600 | Cell 619-368-4800 | Fax 619-881-0045

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